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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Item 4 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Report of the Secretary-General

1. At its forty-fifth session, the Commission on Human Rights adopted resolutions 1989/1 and 1989/2 A and B. By paragraph 12 of resolution 1988/1, the Commission requested the Secretary-General to bring that resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity. By paragraph 5 of resolution 1988/2 A, the Commission requested the Secretary-General to bring that resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and non-governmental organizations, to disseminate it on the widest possible scale, and to report on its implementation to the Commission at its forty-sixth session. By paragraph 7 of resolution 1989/2 B, the Commission requested the Secretary-General to bring that resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission at its forty-sixth session.

2. In accordance with the requests of the Commission, the Secretary-General brought resolutions 1989/1 and 1989/2 A and B to the attention of all Governments, by a note verbale dated 1 May 1989. The resolutions were also

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brought to the attention of the members of the General Assembly and the Security Council. They were also communicated to the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories and to the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

3. Furthermore, the resolutions were transmitted to all the specialized agencies and to the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The Council of Europe, the Organization of African Unity, the Organization of American States and the League of Arab States also received copies of the resolutions. In addition, the resolutions were brought to the attention of the International Committee of the Red Cross (ICRC) and 24 other non-governmental organizations.

4. In response to the request of the Commission on Human Rights contained in resolutions 1989/1 and 1989/2 A, the Department of Public Information of the Secretariat took steps to ensure that these resolutions would receive the widest possible publicity. Resolutions 1989/1 and 1989/2 A of the Commission on Human Rights have been made available world wide through the department's information centres. In addition, the resolutions were also circulated in the media encounters and fact-finding missions organized by the Department. Furthermore, the Department of Public Information undertook the following relevant activities:

(a) A booklet published by the Department in 1985, in describing the work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, deals specifically with the human rights situation in the West Bank (including East Jerusalem), the Gaza Strip and the Syrian Arab Golan. Another booklet, published in 1986, deals generally with the question of Palestine and also covers the subject of human rights in the occupied territories. Both publications were printed in five languages and distributed world wide. Currently, revised and updated versions of both booklets are in the process of production and should be issued by the end of 1989. As soon as they are produced they will be distributed world wide;

(b) As in previous years, a press officer from the Department accompanied the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories in its trip to the Middle East and provided full coverage for its activities;

(c) Fact-finding missions to the Middle East, organized annually, bring about 10 to 15 high-level journalists from all over the world to the region, allowing them an opportunity to understand the Middle East conflict at first hand. In addition, media representatives also participate in two annual regional encounters and two series of national encounters organized by the Department. The fact-finding missions and encounters both deal comprehensively with the situation in the Middle East in general and the question of Palestine in particular, which include an assessment of the human rights conditions in the occupied territories. During 1989, regional encounters were held in Singapore for the Asia and Pacific region, and Kingston, Jamaica, for North and Latin American regions. Three series of national encounters were held in Europe, Asia and Latin America.

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Item 4 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Note by the Secretary-General

1. In paragraph 6 of its resolution 1989/2 A, the Commission on Human Rights requested the Secretary-General to provide it with all United Nations reports appearing between sessions of the Commission that deal with the conditions in which the population of occupied Palestine are living.

2. The Secretary-General accordingly draws the attention of the Commission to the United Nations reports listed hereunder, which have been issued since the closure of its forty-fifth session on 10 March 1989. Any reports issued after the preparation of this note will be included in an addendum.

A/44/3 — Report of the Economic and Social Council for the year 1989, chapter VI, section C, implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations

A/44/13 — Report of the Commissioner-General of the United Nations Relief and Work Agency for Palestine Refugees in the Near East, covering the period from 1 July 1988 to 30 June 1989

A/44/35	Report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People
A/44/277-E/1989/82	Report on Israeli trade practices in the occupied Palestinian territories: report of the Secretary-General
A/44/338-E/1989/118	Report on Israeli financial and trade practices in the occupied Syrian Arab Golan: note by the Secretary-General
A/44/352	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: note by the Secretary-General
A/44/562	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: report of the Secretary-General (in pursuance of General Assembly resolution 43/58 B)
A/44/563	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: report of the Secretary-General (in pursuance of General Assembly resolution 43/58 C)
A/44/564	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: report of the Secretary-General (in pursuance of General Assembly resolution 43/58 D)
A/44/565	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: report of the Secretary-General (in pursuance of General Assembly resolution 43/58 E)
A/44/566	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: report of the Secretary-General (in pursuance of General Assembly resolution 43/58 G)

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A/44/599	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: note by the Secretary-General (in pursuance of General Assembly resolution 43/58 A)
A/44/637	Report of the United Nations Centre for Human Settlements (Habitat) on assistance to the Palestinian people: note by the Secretary-General
A/44/640	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: report of the Secretary-General (in pursuance of General Assembly resolution 43/58 A)
A/44/643	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: report of the Secretary-General (in pursuance of General Assembly resolution 43/58 F)
A/44/690 and Add.1	The situation in the Middle East: report of the Secretary-General
A/44/731-S/20968	Report of the Secretary-General on the question of the convening of an international peace conference on the Middle East
A/44/737-S/20971	The situation in the Middle East: report of the Secretary-General
A/45/84	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories: note by the Secretary-General

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COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Agenda item 12

QUESTION OF HUMAN RIGHTS IN CHILE

Report on the question of human rights in Chile submitted by Mr. Fernando Volio Jiménez (Costa Rica), Special Rapporteur, pursuant to the mandate conferred under resolution 1989/62 of the Commission on Human Rights

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GE.90-10207/1537B

I. INTRODUCTION

1. The Commission on Human Rights and the General Assembly have been examining the situation of human rights in Chile since 1974. This item has been taken up also by the Economic and Social Council and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

2. In accordance with resolution 11 (XXXV) of 6 March 1979, the Commission on Human Rights appointed a Special Rapporteur to inquire into the situation of human rights in Chile. Subsequently, in its resolution 21 (XXXVI) of 29 February 1980, the Commission requested the Special Rapporteur to include in his reports the problem of disappeared persons in Chile.

3. The Special Rapporteurs on this question have been, successively, Judge Abdoulaye Diéye (Senegal), Judge Rajsoomer Lallah (Mauritius) and, currently, Professor Fernando Volio Jiménez (Costa Rica), who assumed his mandate on 1 February 1985.

4. The Commission on Human Rights, at its forty-fifth session, had before it the eighth report of the current Special Rapporteur (E/CN.4/1989/7) on the situation of human rights in Chile. After considering the report, the Commission adopted resolution 1989/62 of 8 March 1989. By paragraphs 9 and 11 of that resolution, the Commission:

> "Decides to extend the mandate of the Special Rapporteur for one more year and to request him to report on the situation of human rights in Chile to the General Assembly at its forty-fourth session and to the Commission on Human Rights at its forty-sixth session."

It also:

> "Decides to consider at its forty-sixth session, as a matter of high priority, the human rights situation in Chile and to determine how the item is to be dealt with on the agenda in the light of developments in that situation."

5. The Economic and Social Council adopted Commission resolution 1989/62 by means of its decision 1989/147 of 24 May 1989.

6. Accordingly, the Special Rapporteur submitted his ninth report to the General Assembly at its forty-fourth session (A/44/635). It was a preliminary report on the evolution of the human rights situation in Chile throughout 1989. The General Assembly noted the report with appreciation and on 15 December adopted resolution 44/166, paragraph 13, which read as follows:

> Invites the Commission on Human Rights to evaluate at its forty-sixth session the situation of human rights in Chile, bearing in mind the reports presented by the Special Rapporteur, to consider the mandate of the Special Rapporteur and also how the item is to be dealt with on the agenda in the light of developments in the situation, and to report to the General Assembly at its forty-fifth session.

7. Pursuant to the above-mentioned resolutions, the Special Rapporteur has the honour to submit herewith, for consideration by the Commission, his second report for 1989, which constitutes his tenth report on the situation of human

rights in Chile. The present report covers the most significant developments during the second half of 1989, and should accordingly be read in conjunction with the report submitted to the General Assembly (A/44/635), which it brings up to date.

8. On this occasion, the Special Rapporteur did not receive any information from the Chilean Government. He was only able to obtain, unofficially, some information on specific issues through the Ambassador of Chile to Costa Rica. The Special Rapporteur also had information from other interested parties, which provided him with testimony and documents of relevance to his mandate. The information was analysed in the light of the norms set forth in the international treaties ratified by Chile and other norms of international human rights law recognized as universally applicable.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

9. In his previous report to the General Assembly, the Special Rapporteur referred to the exchange of correspondence with the Government of Chile concerning that country's co-operation in discharging the mandate which the Commission on Human Rights had conferred upon him (A/44/635, paras. 13-15). In particular, on 11 September 1989 the Special Rapporteur informed the Minister for Foreign Affairs of Chile that he wished to resume the working relationship to which they had become accustomed over the years, and expressed his confidence that the Government would find a way to resume its co-operation with him in the performance of his mandate. The Special Rapporteur also expressed the hope that the Government would again allow him to visit Chile in connection with his mandate, in accordance with the procedures established on his four earlier official visits (para. 15).

10. The Minister for Foreign Affairs replied in a letter dated 2 November 1989, restating his Government's decision not to accept the renewal of the Special Rapporteur's mandate, due to the politically- and ideologically-based attitude that the Commission on Human Rights had maintained with respect to Chile. However, the Minister also repeated that Chile would continue to participate as a member of the international community in universal and regular United Nations activities and would continue to pursue the progressive adoption of internal measures designed to increase the protection of human rights. Among other remarks, he added that his Government's decision not to agree to further special procedures was based on a reason of state, in which national and substantive considerations took precedence, and that there was an unacceptable attitude of discrimination towards Chile, which it would be proper to continue to legitimize. He concluded by noting that his Government's decision was not founded on any reasons having to do with the Special Rapporteur personally.

III. COMPLAINTS OF FURTHER VIOLATIONS OF HUMAN RIGHTS

11. The information contained in this section has been compiled from legal documents received by the Special Rapporteur from the parties concerned, their lawyers and Chilean human rights organizations. It concerns alleged human rights violations which occurred between June and December 1989. As in previous cases, the inclusion of these complaints should not be construed as any prejudgement by the Special Rapporteur as to their merits.

12. As on previous occasions, the Special Rapporteur wished to give the Government an opportunity to state its point of view and to that end met the Ambassador of Chile to Costa Rica on 11 January 1990. During the meeting he passed on a letter addressed to the Minister for Foreign Affairs of Chile, enclosing the memorandum containing the complaints referred to in the preceding paragraph. He expressed his concern at the information contained in the complaints. Later the same day, the Ambassador of Chile informed the Special Rapporteur by telephone that he regretted that he would not be able to transmit the letter and memorandum officially. On the following day, in a letter dated 12 January 1990, he confirmed that it was not possible to accede to the request, and he therefore returned the memorandum.

A. Right to life

A.1. Luis Virgilio Abarca Año. A complaint was filed on 18 August 1989 with the Santiago Twenty-First Criminal Court. According to the complaint, on 13 August 1989, the victim, together with Elías Pizarro, was stopped by three officers of the Policía de Investigaciones, who immediately searched and handcuffed them and took them by police car to the headquarters of the Third Police Station in Calle Zapadores. According to the complaint, the victim was shot and taken to José Joaquín Aguirre Hospital.

The victim's mother was also informed of his state and the fact that his condition was precarious. Mónica Año, who spoke to the victim, was told by him that the detectives had shot him. The victim died on 21 August as a result of the injury. Elías Pizarro, who was an eyewitness to the shooting, has been released with a summons to appear before the First Military Court in Santiago.

A.2. Jécar Antonio Neghme Cristi. A complaint of homicide was filed on 8 September 1989 with the Santiago Fourth Criminal Court by the victim's mother and wife. The complaint states that the victim died on 4 September 1989 as a result of being hit by 12 shells fired by unknown individuals. On that date, Jécar Neghme Crisiti took part in a meeting at the headquarters of the Committee for the Defence of the People's Rights (CODEPU), a non-governmental organization active in the defence and promotion of human rights. According to the complaint, witnesses - CODEPU officials - noticed that day that the building was being closely watched by individuals in civilian dress (short hair, athletic build, wearing short black leather coats). The surveillance was carried out by an organization capable of conducting a large-scale search-and-follow operation. The victim was the spokesman for the Revolutionary Left Movement (MIR) and in that capacity participated as one of the top leaders of the United Left political grouping. According to the complaint, as a leader of a left-wing political organization, Jécar Neghme Cristi was a constant target of persecution and threats in public by individuals whose description and modus operandi are consistent with those generally used by existing security bodies. According to the complaint, the political motivation of the assassination of Jécar Neghme Cristi was proved by the fact that at least two armed gangs described as being of the far right, the first group calling itself "September 11 Front" and the other called "Black Shirt Commando" have publicly claimed responsibility for it to various media such as Radio Cooperativa and others.

B. Right to physical and moral integrity

B.1. Victor Alfonso Díaz Gonzalez. An appliction for amparo (enforcement of constitutional rights) was filed on 27 September 1989 with the Santiago Court of Appeal (case No. 89-089). According to the application, on 24 September 1989 Carabineros in uniform came to the applicant's home. The applicant was invited to accompany them to the Carabineros station, and immediately after his arrest he was beaten and handcuffed. According to the application, the applicant was transferred to the Peñaloten Carabineros station, where he was severely beaten by security agents, kicked and punched and thrashed on various parts of his body, while his breath was impeded due to the fact that a bag had been placed over his head. As a result of this ill-treatment, the applicant suffered an epileptic seizure. The applicant was released on 25 September 1989, after undertaking to report to the Carabineros station on the following days. According to the application, the applicant is accused of having taken part in an attack on a young woman who is the fiancée of a Carabineros official.

B.2. Juan Carlos Ramírez Peña. Application for amparo lodged with the Santiago Court of Appeals on 6 October 1989 (case No. 940-89). According to the application on 5 October 1989 the applicant, together with other young people, was peacefully celebrating the first anniversary of the success of the vote in the 1988 plebiscite, when the Carabineros intervened, because the young people who were celebrating were provoked and set upon by counter-demonstrators, thus causing a street brawl. According to the application, the police only arrested and took away the young people who opposed the military Government and left at liberty those who had begun the disturbance, i.e. the young people who were supporters of the military Government and its candidate Hernán Büchi. According to the application, the applicant sustained serious injuries, and was severely disfigured as a result of the beating. A report by the Forensic Medical Service dated 9 October 1989 concluded that Juan Ramírez showed "injuries apparently caused by a blunt instrument", not serious in nature, and which would heal, "barring complications, in 10 to 12 days, with incapacity for seven to eight days".

B.3. Julio César Sazo Castillo. A complaint for the offence of unnecessary use of violence filed on 27 October 1989 with the Fifth Military Court against Carabinero officials of the Special Forces Station, who were on duty on 12 October 1989, in the Estación Central sector of Santiago. According to the complaint, on 12 October 1989, Sazo Castillo attended the public rally called by the Sole Federation of Workers (CUT) where he stayed until the Democratic Rally candidate for the presidency of the country, Patricio Aylwin Azócar, had spoken. When he decided to go home, he was severely beaten and arrested by Carabineros from the Special Forces Station. Sazo Castillo was hit on the head with a truncheon, which caused a serious gash in his scalp, and sustained punches and kicks. According to the complaint, Sazo Castillo was taken to the First Carabineros Station and placed at the disposal of the Judge of the Santiago Fourth Local Police Court.

B.4. Maximo Illanes Pacheco. A complaint was filed on 30 October 1989 with the Santiago Twentieth Criminal Court against three Policia de Investigaciones officials. According to the complaint, on 10 May 1989 Illanes Pacheco was arrested at his place of work by an Policia de Investigaciones official.

After his arrest, he was taken to the barracks of the Policia de Investigaciones in Calle Borgoño. According to the complaint, at approximately 11 p.m. three detectives began to question the complainant, who was repeatedly punched in the abdomen and spinal column for some 20 minutes. The complainant was beaten up by the same officials a second time, sustaining a fractured nose. At approximately 3.30 a.m., he was beaten for the third time, mainly on the abdomen and spinal column. No longer able to withstand the pain, the complainant was forced to sign a statement confessing to certain offences. Illanes Pacheco was transferred to the Central Barracks of the Policia de Investigaciones and later sent to prison and placed at the disposal of the Ninth Criminal Court.

B.5. René Eduardó Penno Osorio. A complaint was filed on 14 November 1989 with the Santiago Twentieth Criminal Court. According to the complaint, the victim was arrested on 11 May 1989 at approximately 12 p.m. and taken to the Policia de Investigaciones, where he was detained until 13 May. During his detention, the applicant was kicked, punched and hit with blunt instruments on the head, trunk and extremities, and was forced to sign a statement under threat of being subjected to worse torture. According to the complaint, Penno Osorio was transfered to prison and placed at the disposal of the Ninth Criminal Court.

B.6 David Manuel Sagues Espinoza. An early application for amparo was filed on 22 November 1989 with the Santiago Court of Appeal (case No. 1165-89). According to the application, the applicant was abducted several times (17, 26 and 31 October; 6, 14 and 22 November 1989) and was strung up, beaten and threatened by his captors. The application states that he was questioned about the MAPU party, the Lautaro Movement, the top leaders of the Democracy Party, the leaders of the Florida MAPU and the lawyers and doctors who work for the Vicaría de la Solidaridad.

B.7 Osvaldo Emilio Arce Carrasco and Osvaldo Maximiliano Arce Maldonado. A complaint was filed on 28 November 1989 with the First Military Prosecutor's Office of Santiago. It states that, at about 3 p.m. on 25 November, a group of Carabineros officials set upon the complainants, who were severely beaten. According to the complaint, Osvaldo Arce Carrasco and his four-year-old son Osvaldo Arce Maldonado, were dragged for about a block and then released by the Carabineros. Both of them, but especially the boy, had deep gashes all over their faces and chests.

B.8 Carlos Benavides Carvacho, Manuel Jerez Rubio and Luis Scott Reyes. A complaint was filed on 20 December 1989 with the Third Military Prosecutor's Office of Santiago. According to the complaint, they were subjected to unnecessary violence resulting in injury inflicted by soldiers from the Army Motor Vehicle Maintenance Shop on 10 December. Carlos Benavides was severely beaten inside the shop by several soldiers (including NCO Romero) and persons in civilian clothing. He had to be treated at the Orthopaedic Surgery Hospital. Manuel Jerez was hit several times by buckshot, sustaining serious injuries for which he had to be treated at the Central Clinic. Luis Scott Reyes was attacked and beaten with a stick.

C. Right to liberty

C.1 Juan Andrés Ordenes Narváez. An application for amparo was filed on 4 May 1989 with the Military Appeal Court of Santiago. According to the

application, he has been detained since 11 May 1989 in the town of Itahue on the outskirts of Curicó and was placed at the disposal of the Military Prosecutor of that city. Since his arrest, he has constantly been held incommunicado. The application states that Ordenes Narváez' prolonged detention incommunicado is a serious violation of his rights, since he has been denied the right to a fair trial and to appoint a lawyer. Moreover, he is in poor physical condition as a result of the ill-treatment to which he was allegedly subjected when he was arrested. The situation has been made even worse because he has been held incommunicado all this time.

C.2 Marco Antonio Quintanilla Pizarro and seven other students. According to the application for amparo filed on 7 August 1989 with the Santiago Court of Appeal, they were arrested by Carabineros on 7 August 1989 when they were demonstrating peacefully to express their disagreement with the amount of financial assistance for students, which was not enough to meet their needs. The application states that the eight students were demonstrating peacefully and without weapons when they were stopped by Carabineros officials. They were arrested and taken to an unknown place, although it is possible, according to the application, that they might have been taken to the First Carabineros Station.

C.3 Mariá Teresa Quijada Donoso and Miriam Ivonne Rojas Rubio. An application for amparo was filed on 21 August 1989 with the Santiago Court of Appeal. The application states that the victims were arrested by a large contingent of persons in civilian clothing who did not identify themselves or show any arrest or search warrant issued by the competent authorities. According to the application, these persons arrested the two women, who were in an appalling state because they had been beaten up and were bleeding profusely. The application states that the two women are presumed to be detained in the Central Barracks of the Policía de Investigaciones.

C.4 Jessica Antonia Liberona Niñolas and Claudia Andrea Liberona Niñolas. An application for amparo was filed on 21 August 1989 with the Santiago Court of Appeal. The application states that they were arrested by a large contingent of persons in civilian clothing, some of whom were heavily armed and wearing ski masks. According to the application, these persons did not identify themselves or show any court order authorizing the victims' arrest or the search of their home.

C.5 María Raquel Echiburu Alfaro. An application for amparo was filed on 21 August 1989 with the Santiago Court of Appeal. The application states that the victim was arrested by officials who apparently belong to the Violent Crime Squad of the Policía de Investigaciones. According to the application, the father of the victim was informed that his daughter was being held at the Central Barracks of the Policía de Investigaciones, which refused to give him any information about her arrest. The application states that she is four months' pregnant and undergoing particularly delicate treatment.

C.6 Aída Elizonda Ahumada. An application for amparo was filed on 21 August 1989 with the Santiago Court of Appeal. The application states that she was arrested by a large contingent of persons in civilian clothing who were wearing caps and arm bands and carrying sub-machine guns. According to the application, the persons in civilian clothing were trying to find someone named Víctor Noguera, who was renting the house.

Mrs. Elizonda Ahumada was arrested and taken to an unknown place. The application states that it is assumed that she was taken to the Central Barracks of the Policía de Investigaciones, where she is still being held.

C.7 Julio Enrique Gerding Salas. An application for amparo was filed on 29 August 1989 with the Santiago Court of Appeal. According to the application, he was arrested on 28 August 1989 at his residence in the province of San Antonio, commune of Llolleo. His captors did not show any order or search warrant, since documentation relating to his professional activity was seized. The application states that he was taken to the Central Barracks of the Policía de Investigaciones, where he is still being held. His arrest might be linked to the trial of his brother-in-law, Sergio Buschmann Silva, who is under investigation in connection with the "arsenals case".

C.8 Ana Lorena Díaz Ramírez. An application for amparo was filed on 30 August 1989 with the Santiago Court of Appeal. The application states that she was arrested together with three other young persons attending a meeting in connection with the question of missing detainees (30 August 1989 was International Missing Detainees' Day). According to the application, the victim was arrested by Carabineros and taken to the Macul Police Station, where she is still being held.

C.9 Miguel Angel Cabrera Hernández. An application for amparo was filed on 1 September 1989 with the Military Appeal Court of Santiago. According to the application, he was doing military service at the Puerto Montt Air Base. On 29 August 1989, someone called his family anonymously to report that he had been arrested and taken by plane to Santiago. According to the application, when his family tried to obtain information from the Air Base, it was informed that he was on manoeuvres. On 6 September, his sister filed an application with the Military Appeal Court in which she reported that, on 4 September 1989, the Chilean Air Force had issued a press release recognizing that he had been arrested for his alleged connection with a group that had supposedly taken part in the events at Tobalaba Air Base that had led to the death of two persons in an armed clash.

C.10 Roberto Segundo González Lagos and 37 other students. An application for amparo was filed on 3 September 1989 with the Santiago Court of Appeal (case No. 842-89). According to the application, they are students at different faculties of the Blas Cañas school. In connection with the death of the political leader Jécar Neghme, a ceremony was held inside the Blas Cañas school and later a street demonstration was held to draw the public's attention to that odious crime. The application states that Carabineros arrived and immediately started throwing tear-gas canisters inside the school, breaking down its doors and searching it. According to the application, the Carabineros then arrested the applicants.

C.11 Esteban Romo, Ana María Domínguez and Antonio Román. An application for amparo filed with the Santiago Court of Appeal on 8 September 1989 (case No. 850-89) states that they were arrested on 8 September 1989 when a meeting on human rights and the murder of Jécar Neghme was being held in front of the courthouse. It was convened by various social and political organizations to report on and draw the attention of public opinion to serious developments in the country. According to the application, their arrest is unlawful and arbitrary and they are still in detention.

C.12 Miguel González and four other trade union leaders. An application for amparo was filed on 15 September 1989 with the Santiago Court of Appeal (case No. 869-89). The application states that they were arrested by Carabineros on 15 September 1989. Miguel González is national adviser of the Sole Federation of Workers (CUT) and leader of the National Industrial Assembly Trade Union. On that day, he met with other trade union leaders and they went to the courthouse to deliver a letter to the Supreme Court stating that his organization repudiated the arrest of Manuel Bustos Huerta and Arturo Martínez Molina, president and vice-president of CUT, respectively. They were attacked by Carabineros using water cannon and tear-gas canister launchers. According to the application, they were later arrested.

C.13 María Estela Ortíz, widow of Parada. An application for amparo was filed on 4 October 1989 with the Santiago Court of Appeal (case No. 921-89). The application states that she was arrested at about 2 p.m. on 4 October 1989 by members of the Carabineros Special Forces when she was taking part in a meeting in memory of Mr. Jécar Neghme at the corner of Avenida Libertador B. O'Higgins and Avenida Bulnes in Santiago. According to the application, she was taken in a Carabineros bus to the police stations in the centre of Santiago.

C.14 Carolina Arrau Bruna, Victoria Oyarzun and Silvia Espinoza. According to the application for amparo filed with the Santiago Court of Appeal on 5 October 1989 (case No. 931-89), they were arrested by Carabineros at about 2.45 p.m. on 5 October 1989 when they were taking part in a spontaneous peaceful meeting celebrating the first anniversary of the success of the "No" vote in the October 1988 plebiscite. The application states that they were arrested near the Plaza de Armas in Santiago and taken to one of the Carabineros stations, where they are still being held.

C.15 Verónica Herreros Infante. An application for amparo was filed on 5 October 1989 with the Santiago Court of Appeal (case No. 938-89). The application states that she was arrested by Carabineros in the afternoon of 5 October 1989 when she was taking part in a peaceful and spontaneous demonstration by the people of Santiago to commemorate the success of the "No" vote in the October 1988 plebiscite. She was being detained unlawfully and arbitrarily.

C.16 Mauricio Alejandro Villarroel Sepúlveda and Marcelo Andrés Villarroel Sepúlveda. According to the application for amparo filed on 17 October 1989 with the Santiago Court of Appeal, they were arrested at about 4.30 a.m. on 17 October 1989 by a large group of persons in uniform who said that they belonged to the Carabineros Special Operations Group (GOPE). Their home was searched by the officials and they were later taken to the Third Carabineros Station. The application states that one of the Carabineros officials said that Marcelo Andrés Villarroel Sepúlveda belonged to the "Lautaro Youth Movement".

C.17 Nelson González Urzúa and members of his family. A complaint was filed on 19 October 1989 with the Santiago Fourteenth Criminal Court against two detectives, one of whom was Héctor Guzmán Runco. According to the complaint, González Urzúa's home was visited on 7 October 1989 by Norma Runco Chamorro and Héctor Guzmán Runco who went there to collect a debt owed to them by the complainant's mother. As González Urzúa did not pay the debt, the

visitors threatened to come back to collect it. According to the complaint, Guzmán Runco and another person came back later to the complainant's house, this time with weapons. His house was searched and his wife was threatened that she would be raped and their son would be kidnapped. According to what the complainant said, his father and his sister, who had come to his house, were also subjected to coercion, particularly the father, who was pushed into a car, beaten and threatened with the application of electric current and similar kinds of torture.

C.18 Rigoberto Omar Hernández Ruiz. According to an application for amparo filed on 6 November 1989 with the Santiago Court of Appeal, he was arrested at his home on 6 November 1989 by two agents from the Policía de Investigaciones. At the time of his arrest, he was hit in the face with a weapon one of the agents was carrying.

C.19 Manuel Alejandro Martínez Sandoval and Miguel Antonio Martínez Sandoval. An application for amparo was filed on 11 November 1989 with the President Aguirre Cerda Court of Appeals (case No. 309-89). According to the application, at about 6 a.m., on 10 November 1989, a large contingent of persons in civilian clothing who were apparently from the Policía de Investigaciones went to the applicants' house and arrested them. After their arrest, they were taken to an unknown place where they are still being held.

D. Right to security

D.1 Manuel Vergara Meza and Luisa Toledo Sepúlveda. An application for protection was filed on 28 April 1989 with the Santiago Court of Appeal. According to the application, young persons from Santiago shanty towns (Pudahuel, Villa Francia and others) were being politically recruited by a person named or nicknamed Manolo. The application states that he allegedly tried to use them, following thorough training and strict discipline, for acts such as "placing bombs in the Metro and busy cinemas and killing socialist leaders and senior officials in order to take over a regiment". The applicants state that the person who answers to this name and physical description came to their home in early January 1989 and behaved like a security agent, openly and with impunity threatening the physical integrity and even the lives of young persons and children.

D.2 Ricardo Cubillos Contreras. According to the application for protection filed on 23 June 1989 with the San Miguel Court of Appeal, he was stopped on his way home on 18 June 1989 by four armed persons in civilian clothing. The application states that they harassed him by using rude and inconsiderate language and accused him of allegedly being involved with an extremist group. They also questioned him about his friendship with the released political prisoner Waldo Ogaz Peña. Lastly, they threatened him with death if he continued carrying out his usual activities. He fears for his security.

D.3 Juan Carlos Urrea Méndez and 24 other persons. An application for amparo was filed on 22 June 1989 with the Santiago Court of Appeal. According to the application, at about 11 a.m. on 22 June 1989, hundreds of Chilean postal workers gathered inside the Main Post Office (Plaza de Armas) to protest against budget cuts, the elimination of the parcels service and attempts to

privatize the postal service. The application states that the demonstration was peaceful, but when the workers were entering the work place, they were violently attacked by Carabineros Special Forces. The applicants were brutally beaten, although there had not been any provocation by the demonstrators. About 50 workers were unlawfully arrested, in contravention of the most basic and fundamental provisions of the Constitution.

D.4 Inés del Carmen Yáñes Olguín. An application was filed on 23 June 1989 with the San Miguel Court of Appeal. The application states that about 60 persons in uniform searched her home from top to bottom. She and her children have been followed and they fear for their lives. According to the application, her son, Jorge Claudio Navarrete Yáñez, was involved in a confusing incident in which a car she had bought him to use as a rental vehicle was, according to an official investigation, actually used to transport weapons. She believes that there may be a connection between this incident and the frequent harassment and threats she and her family have received.

D.5 Jorge Javier Parraguez Moreno. According to an application for early amparo filed on 24 July 1989 with the San Miguel Court of Appeal, the newspaper La Nación of 23 July 1989 reported that he had allegedly taken part in the "takeover" carried out in the commune of la Pintana on 17 July 1989 and that he had thrown "two grenades which did not explode" during that action. The application states that such information is absolutely untrue, since he has never been in the place where he supposedly threw the grenades; he was at work when the incidents occurred. He fears for his safety and personal freedom.

D.6 Humberto Alex Contreras Silva. An application for amparo was filed on 3 August 1989 with the San Miguel Court of Appeal. The application states that he was informed through the newspaper La Tercera of 23 July 1989 that he was accused, by report No. 250 issued by the Metropolitan Area Carabineros Headquarters, of being the leader of the armed group which supposedly took part in the takeover of the Salvador Dalí shantytown. According to the application, he was in the place where the incidents occurred only because he was looking for construction work.

D.7 Loreto Cristina Valenzuela Valdivia, Francisco Huneeus Cox and Sebastián Huneeus Valenzuela. An application for protection was filed on 11 August 1989 with the Santiago Court of Appeal. According to the application, on that day, unknown persons unlawfully entered the home of the applicants and set off an incendiary bomb which caused material damage. The application states that these incidents were the result of Cristina Valenzuela's public participation in a film about exile and participation in political propaganda for the "No" vote in the plebiscite of 5 October 1988. In the application, she states that actors are subjected to this kind of aggression and threats to their lives, to those of members of their families and to their property in order to prevent them from expressing their opinions and ideas.

D.8 Pablo Rodríguez Whipple. An application for amparo was filed on 1 September 1989 with the Santiago Court of Appeal (case No. 828-89). According to the application, he is the son of the architect Alejandro Rodríguez Urzúa, who has been missing since 27 July 1976. Some of the members

of the families of missing persons have been meeting at various times and, as a result, they have been followed and watched. According to the application, the applicant's car has been searched and he himself subjected to surveillance.

D.9 Juan Eduardo Cornejo Ilva. According to an application for amparo filed on 6 September 1989 with the President Aguirre Cerda Court of Appeal (case No. 249-89), he was arrested on 6 September 1989 at about 6 a.m. by persons from the Policía de Investigaciones. Aldo Ruiz Espinoza witnessed the arrest. According to the document submitted on 7 September 1989 by Nancy Espinoza Gutiérrez, the applicant was transferred to the barracks located on Gran Avenida, where he stayed until 2 p.m. He was questioned about alleged participation in a robbery and about the connection between him and Pablo Cristián Ruiz Espinoza. According to the report, the treatment consisted of questions and blows. He was later released.

D.10 Jorge Nicanor José del Carmen Osorio Vargas and 23 other persons. An application for protection was filed on 7 September 1989 with the Santiago Court of Appeal. The applicants all work at the Latin American Centre for Adult Education (CEAAL). As stated in the application, they are being subjected to constant threats against their security and physical integrity, presumably by the group or movement known as "September 11". The application states that the "September 11" group or commando recently claimed responsibility for the murder of the leader Jécar Neghme.

D.11 Luis Maira Aguirre, Denise Pascal Allende, Patricio Rivas, Manuel Riesco Larraín, Humberto Martone and Carlos Molina Bustos. According to the application for protection filed on 8 September 1989 with the Santiago Court of Appeal they are the officers of the Broad Socialist Left Party (PAIS). They fear for their security as a result of the murder of Jécar Antonio Neghme Cristi, the leader of the United Left Party with links to PAIS. They have also received death threats. According to the application, Jaime Cavada Alcaide, National Director of PAIS, the Christian Left Party and the Political Committee of the United Left Party (IU), was the victim of an attempt on his life (he was kicked and beaten) by an unknown man and woman. According to the application, PAIS headquarters are under constant surveillance by unknown persons.

D.12 Julio Raúl Morales Vidal. An application for amparo was filed on 28 September 1989 with the President Aguirre Cerda Court of Appeal (case No. 259-89). The applicant states that he fears for his safety because, on various occasions (26 September 1989), he was sought out by persons in civilian clothing who did not identify themselves and were carrying a photo which was not of him. According to the application, the house where he used to live was also searched by the same persons in civilian clothing who did not identify themselves.

D.13 María Nancy del Rosario Blaset Castro and Nancy Marlene Parra Blaset. According to the application for amparo filed on 29 September 1989 with the Santiago Court of Appeal (case No. 267-89), their home is being watched, apparently by security or police officials who want to know about the activities of Enrique Parra, a member of their family who lives abroad after having been kidnapped and tortured in October 1986.

D.14 Fortunato Segundo Zúñiga Espinoza and the members of the Quinta Normal Taxi Drivers' Union. An application for protection was filed on 23 October 1989 with the Santiago Court of Appeal (case No. 433-89). According to the application, he is the secretary of the Quinta Normal Taxi Drivers' Union and fears for the safety of the members of the Union, who have been threatened a number of times by telephone. The application states that the following threats were made: "Villanueva and Zúñiga do not have much time left"; "We are going to kill them all"; "Don't keep occupying the Union headquarters to support Aylwin and don't keep turning it upside down to discredit the Government"; "Neither Lagos nor Aylwin can save you". The telephone calls were anonymous.

D.15 María Estela Ortíz Hojas, and the juveniles Javiera Parada Ortíz, Camilo Parada Ortíz, Juan José Parada Ortíz and Pablo Antonio Parada Ortíz. An application for protection filed with the Santiago Court of Appeal on 27 October 1989 (case No. 369-89) states that the applicant is a candidate for the post of deputy for District No. 21. She fears for her own safety and for that of her children, who are all under age, since she has been under surveillance and followed on many occasions. It also states that the applicant is the daughter of Fernando Ortíz Letelier, who has been missing since 1976 and the widow of José Manuel Parada Maluenda, who was murdered on 29 March 1985. A written submission to the Santiago Court of Appeal (case No. 369-89) by Ricardo Manzi Jones repeats that the applicant and her children have been under surveillance and followed and that he fears for their safety.

D.16 Nelson Antonio Andrade Alcaíno. An application for amparo filed with the Santiago Court of Appeal (case No. 1039-89) on 2 November 1989 states that the applicant was arrested on 2 November 1989 at approximately 12.30 p.m. by officials of the Policía de Investigaciones. According to the applicant's written submission of 3 November 1989 to the Santiago Court of Appeal, he was arrested on 2 November by members of the Policía de Investigaciones and taken to the Calle Borgoño police station. During his detention, he was punched and kicked, threatened and warned not to contact organizations or lodge applications with the Court of Appeal. At approximately 2 p.m. on the same day, the applicant was released. According to the written submission, the members of the Policía de Investigaciones kept the applicant's personal papers.

D.17 Pablo Jorge Rossel Díaz. An application for protection filed with the Santiago Court of Appeal (case. No. 452-89) on 3 November 1983 states that the applicant is under age and is a student. There are fears for his safety since he has received threats. According to the application, one of the threats read as follows "Communist, you are going to die". The sentence was made up of newspaper cuttings and was followed by a logo identical to that of the extreme right-wing group Patria y Libertad. According to the application, Pablo Rossel had already been assaulted on 5 October 1988, when he was commemorating the victory of the No vote, by rowdy persons who were carrying out a counter-demonstration. In a second written submission to the Santiago Court of Appeal (case No. 452-89), Pablo Jorge Rossel Díaz states that he was attacked on another occasion on 5 November 1989 by individuals travelling in a Fiat 147 car who threw an explosive device at him and which he was able to dodge. The written submission also states that he was arrested on 8 November 1989 at approximately 4.50 p.m. by officials of the Policía de Investigaciones and on that occasion a record was made of his possessions and he was questioned about his activities. He was later released.

D.18 Mónica Yolanda González Mujica. A complaint of 8 November 1989 filed with the Santiago Sixteenth Criminal Court states that on 7 November a bombing attack described as "intentional" was made on the complainant's motor car. The submission states that the complainant, a journalist, received a number of telephone calls threatening her with death following two articles published in the magazine Análysis about the increased assets of the Pinochet Hiriart family. The complainant fears for her own safety and for that of her husband, Rodrigo González Lopez, a lawyer with the Vicaría de la Solidaridad.

D.19 Jorge Martínez, Claudio Molina Donoso, Heriberto Mena Batres, Pedro Fuentes Trejos and 500 other political prisoners. A written submission filed with the Supreme Court on 23 November 1989, states that the signatories are leaders of the National Co-ordinating Body for Political Prisoners confined in the Centro de Detención Preventiva Norte (formally the public prison) in Santiago. The written submission states that arbitrary and unlawful acts against political prisoners are commonplace, as are isolation measures within prisons, and are usually ordered by military prosecutors. It goes on to say that these measures are tantamount to incommunication which is extended for months and sometimes for years. This protracted confinement results in severe mental disorders for some of the persons affected. For example, the prisoner Roberto Iko Andaur has been in solitary confinement for more than a year and a half. This measure was ordered by the naval prosecutor Miguel Angel Muñoz. In reaction to this measure, 41 political prisoners in the Centro de Detención Preventiva in Valparaiso decided on 23 October 1989, not to make statements to the prosecutor's departments and criminal courts until the incommunication measure was lifted. It is also stated that seven female political prisoners have been kept in solitary confinement for some weeks in the San Miguel prison for men. They have not so far been transferred to the Centro de Detención Preventiva in Santo Domingo which is the compound for female political prisoners in Santiago. They include Raquel Echiburú (who is pregnant), Jessica Liberona, Hilda Alvarado, Andrea Oyarzún, Nancy Rivera, Verónica Moreno and Jessica Briones. These women prisoners are said to be subjected to bad living conditions and defenceless against punitive measures taken against them.

D.20 Documents belonging to the National Information Agency (formerly the DINA). A written submission, dated 5 December 1989, filed with the Office of the Controller-General of the Republic by Ramón Briones Espinosa and Hernán Bosselin Correa, states that there have been a number of statements by the Minister of Defence about the destruction of documents belonging to the security agency known as the National Information Agency (the former DINA) and the Chief of State has recently expressed the same views. The written submission states that both the Minister of Defence and the Chief of State say that there is documentation in existence which need not be kept since it is out of date and is therefore unimportant and may be disposed of; this documentation includes the archives of the aforementioned National Security Agency. The written submission states that Act No. 18.845 was promulgated and published in the Diario Oficial on 3 November 1989. Article 6 (3) of the Act lays down the general procedure for the destruction of documents. Article 10 of the Act states that the entities mentioned in article 14 of law-ranking decree No. 5.200 of 1929 of the Ministry of Education, and which in effect are the Ministry of Defence, the Armed Forces, Order and Security and other agencies responsible to that State Secretariat (i.e. the National Information Agency) are empowered to proceed with the destruction of documents with the

limitations and in accordance with the procedure established by Act No. 18.845 and that it prevails over any other provision. The written submission states that it is now legally possible for the authorities to order the total or partial destruction of DINA or CNI documents. The destruction of documents raises a serious constitutional problem, in that it erodes in practice, the Judiciary's power to investigate and to take decisions. The document states that this is the first law of its kind that authorizes the destruction of official archives, thereby jeopardizing, independently of other legal assets, the State's ownership of them, without the possibility of redress.

D.21 Patricia Inés Gutiérrez Cárdenas, Jeanette Marianela Garjardo Fuentes, Jorge Mario Patricio Herrera Vargas and Luis Artemio Flores Lazcamo. An application for protection lodged with the Santiago Court of Appeal on 5 December 1989 (case No. 513-89) states that the persons in question were active in forming the Association of Officials of the Faculty of Dentistry of the University of Chile. The application states that at various times between 24 and 27 November 1989, and in their respective places of work, they received death threats from an extremist group calling itself the Comando Diciembre Libre. The various threats were made by telephone apparently by the same man. The first of the calls was received by Jorge Herrera on 24 November. The caller said: "You will die before 14 December, together with Patricia Gutiérrez, Jeanette Garjardo and Luis Flores". The threat ended: "Diciembre Libre will prevail". The applicants fear for their safety.

E. Right to a proper trial and to procedural guarantees

E.1 Reinalda del Carmen Pereira Plaza, Edras de las Mercedes Pinto Arroyo, Santiago Edmundo Araya Cabrera, Armando Portilla Portilla, Walto Ulises Pizarro Molina, Lincoyán Yalu Barrios Cataldo, Luis Segundo Lazo Santander, Juan Fernando Ortíz Letelier, Horacio Cepeda Marinkovic and Lisando Tucapel Cruz Días. These 10 persons were arrested and disappeared between 29 November and 20 December 1976, according to case No. 2.77, and an inquiry conducted by Investigating Judge Carlos Cerda Fernández (see the background information in E/CN.4/1986/2, case D.2, A/41/719, annex, case D.27 and E/CN.4/1987/7, case D.29). It will be remembered that Judge Cerda committed 38 soldiers and 2 civilians for trial on 14 August 1986 on the grounds of unlawful association. On appeal, the Court of Appeal and the Supreme Court set aside the orders initiating proceedings and informed Judge Cerda that an order should be issued dismissing the proceedings in the case in accordance with Decree-Law No. 2191 of 1978 on amnesty. Subsequently Judge Cerda committed Manuel Salvatierra Rojas, Jorge Lobos Henríquez, Manuel Muñoz Gambra and Daniel Luis Enrique Guimpert Corvalan for trial on the grounds of engaging in unlawful association linked to the disappearance of the 10 aforementioned persons. On appeal, the Court of Appeal rejected the initiating orders and issued an order dismissing proceedings in case No. 2-77 (judgement of 1 June 1987). Further, in a judgement of 11 August 1989, the Supreme Court overturned the appeal to vacate for procedural error and for fundamental error submitted against the judgement by the Court of Appeal, confirming it in all respects. Consequently, the Supreme Court has confirmed the dismissal of proceedings in case No. 2-77, in respect of the inquiry into the disappearance of the 10 persons named above.

E.2 Juan Waldemar Henríquez Araya and Wilson Daniel Henríquez Gallegos. A written submission of 17 August 1989 filed with the Supreme Court indicates that on 22 July and 6 August 1987 charges were brought concerning the murders of Juan Henríquez and Wilson Henríquez, respectively, in the Sixth Criminal Court in San Miguel. The written submission states that the victims were killed by the members of the National Information Agency (CNI) in the "Albania operation", (also known as the Corpus Christi killings). The application states that these acts occurred two years ago, that the investigation has been in the hands of the Military Justice authorities for more than one year and a half and the CNI has not yet supplied the information ordered by the courts on more than 20 occasions, since the information sought is of great importance in clarifying the facts of the murder.

E.3 Rodrigo Andrés Rojas de Negri and Carmen Gloria Quintana Arancibia. Sentence handed down by the Second Military Court on 24 August 1989 in case No. 1609-86. This decision confirmed the ruling of 22 December 1988 by the Ad Hoc Military Prosecutor (see A/44/635, case E.5), sentencing Pedro Enrique Fernández Dittus to 300 days of reclusión menor (minimum degree) plus the legal consequences of suspension from work and public office for the period of the sentence, as the perpetrator of the quasi-delict of homicide and serious bodily harm against the aforementioned persons in the city of Santiago on 2 July 1986. According to the ruling Rojas de Negri and Quintana Arancibia, together with other young people, had conspired to erect a barrier of flames on the Avenida General Velásquez for the purpose of interrupting road traffic. To carry out their plan, they had tyres, incendiary devices and about five litres of petrol. After the two young people had been arrested by the security forces commanded by Lieut. Fernández Dittus, they were put up against a wall (the southern pavement of Calle Hernán Yungue) very close to the explosive materials. According to the ruling, Quintana, in a sudden movement, kicked one of the bottles containing the inflammable liquid and the fire enveloped the two young people immediately. According to the ruling only an hour after the accident did the security forces request medical assistance and have the young people taken to the Irene Frei Polyclinic. On 6 July 1986, Rodrigo Rojas de Negri died in the Intensive Care Unit of the Public Assistance Central Clinic as a result of second and third degree burns affecting 65 per cent of his body. Carmel Gloria Quintana Arancibia suffered serious injuries due to burns covering 61 per cent of her body.

E.4 Maria Isabel Beltrán Sánchez. The Military Prosecutor intervened in case No. 507-89 of the Military Appeals Court on 30 August and requested the dismissal of proceedings in this case and in case No. 1616-84 of the Second Military Court concerning presumed misadventure in the case of Maria Isabel Beltrán Sánchez, a missing person, in accordance with the provisions of article 408 (5) of the Code of Criminal Procedure, in relation to article 93 (3) of the Penal Code. This petition bestows on those persons who might have been charged the benefits of the amnesty prescribed in Decree-Law No. 2191 of 1987, which has the effect of expunging the offence, annulling the penalties applied and suspending the procedures for enforcing them.

E.5 Fabián Ibarra Córdova and seven other missing detainees. A complaint dated 22 November 1989 filed with the Supreme Court (case No. 465-78 of the Court of Appeal and case No. 230-77 of the Valparaíso Military Prosecutor's Department) states that these persons were activists and leaders of the

Revolutionary Left Movement (MIR) and were arrested by the DINA in the period between 17 and 27 January 1975. All the detainees were taken by DINA agents to the Maipo Regiment in Viña del Mar and subsequently transferred between 28 and 29 January to Villa Grimaldi, a DINA secret compound in Santiago. On 20 February 1975, the eight prisoners were taken from Villa Grimaldi to an unknown destination. The complaint was filed against the ruling by the Santiago Court of Appeal on 15 November 1989 confirming the dismissal of proceedings in case No. 230-77 invoking the application of Decree-Law No. 2191. According to the decision handed down by the Court, Decree-Law No. 2191 granted an amnesty to persons who in their capacity as perpetrators, accomplices or accessories after the fact had engaged in criminal acts between 11 September 1973 and 10 March 1978. According to the Court, an amnesty comprises a full pardon, the effect of which is to suppress the penal consequences of a criminal act, in the interests of social peace and coexistence. This being the case, an amnesty does not simply extinguish the penalty but also the criminal act, and may be declared at any stage of the trial or after sentence.

E.6 Jorge Martínez Martínez, Claudio Molina Donoso, Heriberto Mena Batres and Pedro Fuenbtes Trejos, and 500 other political prisoners. A written submission to the Supreme Court dated 23 November 1989 states that the signatories are leaders of the National Co-ordinating Body for Political Prisoners confined in the Centro de Detención Preventiva Norte (formerly the public prison) in Santiago. The submission states that some 500 people are currently being held in Chilean prisons; all have been subjected to torture in one or more brutal forms. The object of the torture was presumably to obtain information about the political and social organizations to which the victims belonged. According to the written submission, the use of such coercion has been a continuous and routine practice during the last 16 years utilized by the so-called security agencies. The written submission requests the Supreme Court that the 19 legal cases pending for alleged torture perpetrated by the security agents identified in the submission should be expedited.

E.7 Germán Alfaro Rojas, Hugo Segundo Peña, Gustavo Villalobos Sepúlveda, Ramiro Francisco Olivares Sanhueza and the Vicaría de la Solidaridad. The Military Prosecutor issued a ruling on 20 November 1989 relating to the defendants in case No. 782-86 in connection with the attack on the Lautaro bakery and which is of concern to the Vicaría de la Solidaridad. The Military Prosecutor's ruling called for the death sentence for Germán Alfaro Rojas and Hugo Segundo Gómez Peña as the perpetrators of the murder of the carabinero Miguel Vásquez Tobar and the tradesman Simón Yévenes Yévenes. According to the ruling, the penalties requested in respect of the officials of the Vicaría de la Solidaridad, the lawyer Gustavo Adolfo Villalobos Sepúlveda and the doctor Ramiro Francisco Olivares Sanhueza are five years' rigorous imprisonment as perpetrators of the offence prescribed in article 8 of the Act on the Control of Firearms and Explosives. As far as the Vicaría de la Solidaridad was concerned, the Military Prosecutor ruled in favour of "partial stay of proceedings in the case, in respect of the authorities and officials of the Vicaría involved in organizing a scheme of aid and protection for persons who have participated in acts of a violent nature". Many custodial penalties ranging from rigorous imprisonment for life to 541 days of imprisonment were awarded to the remaining defendants.

E.8 Juan Mòreno Avila, Víctor Leodoro Díaz Caro, Jorge Mario Angulo González, Arnaldo Hernán Arenas Bejas, Lenín Fidel Peralta Véliz, Héctor Figueroa Gómez, Ricardo Alex Contreras González, Mauricio Fabio Arenas Bejas, Héctor Washington Maturana Urzúa, Juan Andrés Ordenes Narváez, Richard Ledesma Plaza, Manuel Araneda González, Miguel Colina Valdivia, José Ugarte González and Jose Luis Donoso Cáceres. The Military Prosecutor issued a ruling on 24 November 1989 relating to the defendants in case No. 1919-86 concerning the attack on the presidential convoy perpetrated in the sector of La Obra on 7 September 1986 together with the attack on Los Queñes on 21 October 1988 and the attack carried out in Talca on 11 April 1989 against members of the Armed Forces and Order and Public Security. In the ruling, the Military Prosecutor requested the death penalty for the 15 aforementioned defendants and long prison sentences for 13 other defendants. The Second Military Court issued an instruction on 20 November 1989 ordering "... the charge to be brought to the attention of the lawyer appointed by the Ministry of the Interior so that, within the legal period of time, he may concur with it or put forward an alternative ... when this has been done, the arrangements will be put into effect to enable the defendants to answer the charges, each one having a period of six days, according to the order and turns indicated ...". Accordingly, it may be deduced that each defendant will only have six days in which to prepare his defence. Moreover, according to other information, the defence counsels proposed that the Supreme Court should suspend the procedure until a decision had been taken on an application for inapplicability on the ground of the unconstitutionality of the Anti-Terrorism Act which is pending.

IV. CONCLUSIONS

13. In writing this report, the Special Rapporteur wishes to emphasize that the human rights situation in Chile is quite different from that in February 1985. During the last five years, the Special Rapporteur has witnessed a notable improvement in that field, in the direction of respect for freedom, in its various forms.

14. When he was appointed in February 1985, Chile was in the throes of deep social tensions, whose tragic repercussions took the form of very serious systematic breaches of fundamental rights. The Government had emerged out of a coup d'état in 1973 and was exercised by a Military Junta. Administrative internal banishment was widespread, torture and unlawful coercion abounded as part of a system of widespread repression, used mainly by the National Information Agency (CNI); the state of siege and two other states of emergency were in force; political parties were banned; the Government controlled the universities; the President of the Republic enjoyed excessive powers under the Constitution which conflicted with its democratic principles and lent themselves to abuses prejudicial to fundamental rights and in particular to the administration of justice; opponents of the régime were frequently subjected to intimidation, generally with serious results; thousands of Chileans were in exile; police, security forces and the armed forces acted violently, exceeding their functions to the detriment of Chileans' basic rights; and freedom of the press and freedom of assembly were tightly controlled by the exceptional powers of the President of the Republic.

15. Despite the situation described above (which merely summarize the main contributory factors to the tension and the rifts characteristic of those five years), the Chilean people possessed the foresight, courage and wisdom

needed to find a way out of the conflict. Individuals and groups emerged from all sectors and engaged in a quest for solutions, with the establishment of a democratic régime as their overriding objective.

16. The 1985 picture gradually changed. That of 1990 is very different. On two memorable occasions, principally, in October 1988 and December 1989, the Chilean people was able to exercise its right to decide on its political future by means of elections carried out in a conducive atmosphere since the obstacles mentioned above in paragraph 14 had been removed, and the way was open for representative democracy, the guardian of freedom.

17. In addition to the elections in December 1989, the following developments contributed to improve the human rights situation during the period covered in this report: (a) The adoption by the Government Junta (the current Legislative Power), of the National Congress Act, regulating the composition and powers of the Chamber of Deputies and the Senate, whose members were chosen in the aforementioned elections and who will take up their duties on 14 March 1990. This law has constitutional status and is the last of those laws which the Special Rapporteur worked to promote during his mandate, all of which were designed to protect fundamental rights, as a component of the new democratic structure; (b) The administrative internal banishment of two important trade-union leaders was ended; (c) The Government Junta adopted various amendments to the Penal Code and to the Code of Penal Procedure, to ensure better protection for the rights of persons facing trial in the civil courts; (d) The civil courts took a major step in the right direction when Judge Dobra Lusic of the Santiago Third Criminal Court sentenced four CNI agents, who had been among a group of 40 organized civilians who had attacked demonstrators on 1 May 1983 in the Plaza Venezuela in Santiago. The judgement observed that the attackers' purpose had been to "employ violence in order to repress acts through which the demonstrators indicated moral dissent"; (e) On 11 January 1990 the dissolution was announced of the CNI (the secret police).

18. The Special Rapporteur wishes to draw attention to two new and verified retrograde developments of particular importance:

(a) The call for the death penalty made by Ad Hoc Military Prosecutor Renato Gómez against 15 persons in the case concerning the attack on the presidential convoy and the attack on Los Queñes, and the call for the death penalty by Military Prosecutor Francisco Silva against two other persons in the case concerning the murder of Carabinero Miguel Vásquez Tobar, in 1986 in which two officials of the Vicaría de la Solidaridad also face charges.

(b) The final decision of the Supreme Court to terminate the investigation carried out by the Inspecting Magistrate Carlos Cerda. Not only did the Court fail to act on the investigations conducted by Judge Cerda, with admirable thoroughness and devotion to the cause of human dignity, which the Judiciary should guard with zeal, but it also prevented his work from achieving its ultimate objective in the case of 10 missing prisoners, as well as other similar investigations into the many unsolved cases involving the abhorrent offence of detention followed by disappearance, reported after the 1973 coup d'état.

19. The agreements concluded between the Government and the International Committee of the Red Cross (ICRC) remained in operation to prevent the

practice of torture. The agreements, whose formulation the Special Rapporteur advocated, were the outcome of efforts by groups of Chileans who were opposed to the torture that had spread throughout the Chilean political system. During his four visits to Chile, the Special Rapporteur maintained close contacts with those groups and in the light of their experience and that of the Committee was able to indicate to high-ranking members of the Government his profound concern at the practice of torture generally employed by officials responsible for interrogating detained persons. The Government figures reacted in a positive manner and thus the current agreements which incorporate the main initiatives of the ICRC and which have been improved in the light of experience, were drawn up.

20. As a result of these developments, torture ceased to be practised systematically, although it has not yet been totally eliminated and remains a source of much concern to the Special Rapporteur.

21. The Special Rapporteur has given continuing and close attention to military justice. Its methods, which run counter to the universal principles that regulate the administration of justice in general, as well as against the specific principles of the military régime, undermine the human rights of Chileans. Accordingly, the Special Rapporteur has energetically denounced, and continues to denounce, such methods. Unless there is a far-reaching reform of military justice, the human rights situation in Chile will always be precarious and a source of deep concern both for Chileans and for the democratic international community.

22. The death penalty called for by the military prosecutors against 17 persons casts a dark shadow over the human rights situation in Chile, on the eve of the establishment of a democratic political system. Article 6 of the International Covenant on Civil and Political Rights, ratified by Chile, states that "Every human being has the inherent right to life". Article 4 of the American Convention on Human Rights, also ratified by Chile, reiterates that "Every person has the right to have his life respected". The 17 applications for the death penalty mentioned above should be viewed in the light of these legal provisions.

23. With the exception of the case of those persons who were burned (Rodrigo Rojas and Carmen Gloria Quintana), in the three other notorious cases, no significant progress has been made in investigating the facts and although in the case of those who were burned a ruling was handed down against the person found guilty, his penalty was light in relation to the seriousness of the acts, thereby depriving the ruling of any exemplary value.

24. Apart from the rebuttal issued by the Government of Chile (A/44/728), during the period covered by this report the Special Rapporteur has not found any fresh evidence that would allow him to form a view on the complaints concerning alleged human rights violations at Colonia Dignidad, most of whose residents are German subjects, to which he referred in his ninth report submitted to the General Assembly. However, the Special Rapporteur considers that the matter deserves careful and comprehensive investigation, without undermining the sovereignty of Chile, referred to by its Government.

25. The extremely disturbing case of the five detainees who disappeared at the end of 1987 has still not been clarified.

26. In preparing this report, the Special Rapporteur did not have official co-operation from the Government of Chile. He was only able to obtain, unofficially, some information on specific issues through the Ambassador of Chile to Costa Rica.

27. The task of continuing to restore the system of human rights protection will devolve upon the new Government of Chile, chosen in the December 1989 elections, to ensure that redress is made for the wrongs suffered by many individuals until March 1990, when the democratic Government will take office. That responsibility will obviously be an inherent component of the new political régime. Representative democracy was conceived in order to promote and ensure universal respect for freedom, and to use that essential and irreplaceable tool to make room for any activity that dignifies the human condition. The Special Rapporteur also feels that in those circumstances, the activities of a special rapporteur will not be necessary, although it might be desirable to have a new and specific form of international co-operation for the protection of human rights on the part of the United Nations. That would, of course, be left to the discretion of the Government of Chile and of the Commission on Human Rights.

28. Neverthless, much remains to be done to ensure that Chilean society enjoys a reliable system of legal protection for freedom. The representative democracy that will take its place in March 1990 is without doubt an extraordinarily important starting-point from which to pursue the combat to ensure that freedom prevails in its manifold and prolific guises. However, this in no way overlooks the major obstacles that the men and institutions of the new régime will face in that sphere, as a result of the very nature of the system of Government and of democratic life, and on account of the deep rifts created within Chilean society over many years of acute political conflict, exacerbated by violence.

29. There is no need to underscore the difficulties that will confront the new Government, alien in nature to any form of dogmatism. It is sufficient to remember the famous words spoken by Winston Churchill in the House of Commons on 11 November 1947: "Many forms of Government have been tried and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of Government except all those other forms that have been tried from time to time".

30. Neither is there any need to stress the repercussions of the grave and tragic events experienced by Chile in recent years. However, it is worth bearing in mind two quotations from "Troilus and Cressida" by William Shakespeare. According to the first of them, "Those wounds heal ill that men do give themselves" (Act III, 3,229), while the second reminds us that "The end crowns all; and that old common arbitrator, time, will one day end it" (Act IV, 5,224).

31. Moreover, the Chilean people has shown exemplary courage in overcoming every adversity in an unwavering quest for its inherent and essential rights. There is consequently no doubt that the cause of freedom and democracy will take root in Chile.

V. RECOMMENDATIONS

32. The Chilean Government should vigorously exert its influence, within the limits of its legal powers, to prevent the death penalty from being applied to the 17 persons accused in connection with the serious attack on the presidential convoy in September 1986, the attack on Los Queñes, and the death of the Carabinero Miguel Vásquez Tobar, in which connection two officials of the Vicaría de la Solidaridad also face charges.

33. As the Special Rapporteur has observed in previous reports, it is necessary to seek out a legal and political solution to allow Judge Carlos Cerda to continue his exemplary efforts to investigate all aspects of the 10 cases of detained and missing persons, as well as other similar cases reported since 1973.

34. It is important to prevent further cases of torture or unlawful coercion, even if cases occur sporadically and are not part of a repressive system. Accordingly, it is necessary to make an assessment of the current agreements with the International Committee of the Red Cross and to ensure that at all times they operate with maximum efficiency, providing protection for persons arrested on any grounds, including those held incommunicado, and above all political cases. It is also essential to carry out investigations into complaints of torture or unlawful coercion with the utmost diligence and to ensure that persons guilty of such serious and abhorrent breaches of fundamental rights are duly punished, in accordance with the law.

35. The system of military justice must be reviewed and reformed so as to avert those excesses that have been and still are the root causes of many of the most serious breaches of human rights, as the Special Rapporteur has indicated in his previous reports.

36. The Government should afford the maximum co-operation to inspecting or special magistrates entrusted with the notorious cases of the persons whose throats were cut, the "Corpus Christi" killings or "Albania operation" and the "September 1986 murder victims".

37. Proceedings connected with another famous case, that of those who were burned should also be concluded so as to afford the higher courts (the Military Appeal Court and the Supreme Court) the opportunity to review on impartial bases, the ruling by the Second Military Court, on 24 August 1989.

38. Chile should rapidly ratify the American Convention on Human Rights (Pact of San José) and subsequently recognize the jurisdiction of the Inter-American Court of Human Rights, which is one of the two bodies established by the Convention to protect those rights. Chile should also ratify the Optional Protocol to the International Covenant on Civil and Political Rights, thus enabling individual communications or complaints to be submitted to the United Nations Human Rights Committee, the body responsible for safeguarding the rights contained in the Covenant.

39. The archives of the recently disbanded National Information Agency (CNI) should be preserved and their integrity afforded adequate protection, so that they may assist the courts in their investigations on human rights issues.

40. Every effort should be made without further delay to complete the investigation into the serious attack against the staff and premises of the former Intergovernmental Committee for Migration (ICM) now called the International Organization for Migration (IOM). This attack took place in 1986. Failure to act as suggested by the Special Rapporteur would constitute a whitewashing of that outrage and encourage other similar attacks against international humanitarian organizations operating in Chile.

41. An evaluation should be made of the action taken on the recommendations put forward by the Special Rapporteur in his nine previous reports, so that the relevant measures may be taken to promote the effective protection of the human rights of the Chilean people.

42. The legal proceedings connected with offences allegedly committed by members of Colonia Dignidad should be pursued with the utmost diligence. Chilean Government authorities should provide all possible co-operation to the court dealing with the case.

43. The Special Rapporteur also wishes to emphasize the need to improve the circumstances of the indigenous peoples, and of the Mapuche people in particular, to ensure that the rights of their members are respected.

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VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS

Torture and inhuman treatment of children in detention in South Africa and Namibia

Report of the Secretary-General

1. At its forty-third session, the General Assembly, on 8 December 1988, adopted resolution 43/134 entitled "Torture and inhuman treatment of children in detention in South Africa and Namibia" in which, inter alia, it requested the Commission on Human Rights to continue to pay special attention to this question, and requested the Secretary-General to submit a report at its forty-fourth session on the implementation of this resolution. Consequently, the Secretary-General submitted a report (A/44/623) containing information received from United Nations bodies, specialized agencies and non-governmental organizations, as well as excerpts from the report of the Ad Hoc Working Group of Experts on southern Africa to the Commission on Human Rights at its forty-fifth session (E/CN.4/1989/8).

2. At its forty-fourth session, the General Assembly, on 15 December 1989, adopted resolution 44/143. Noting the report of the Secretary-General, the Assembly reiterated in this resolution its request to the Commission on Human Rights to pay special attention to the question of detention, torture and other inhuman treatment of children in South Africa and also to the children of Namibia who have been victims of torture, detention and other inhuman treatment by the Apartheid régime, with a view to rehabilitating them. It further requested the Secretary-General to submit a report to the General Assembly at its forty-fifth session on the implementation of this resolution.

3. The Commission on Human Rights, by resolution 1989/4 of 23 February 1989, inter alia, reiterated the condemnation of the detention, torture and inhuman treatment of children in South Africa and Namibia as well as the demands expressed by the General Assembly in this regard; appealed to the international community to adopt concrete and effective measures to bring pressure to bear against the Government of South Africa until it dismantles apartheid and abandons all inhuman practices associated with this policy; and requested the Ad Hoc Working Group of Experts on southern Africa to pay special attention to the question of detention, torture and other inhuman treatment of children in South Africa and Namibia and report to the Commission on Human Rights at its forty-sixth session. In operative paragraph 10 of the same resolution, the Commission requested the Secretary-General to intervene with the Government of South Africa in order to bring to an end the detention, torture and other forms of inhuman treatment of children in South Africa and Namibia, and to report on the outcome of his efforts to the Commission at its forty-sixth session.

4. By a note verbale dated 31 May 1989, the Secretary-General drew the content of Commission resolution 1989/4 to the attention of the Minister of Foreign Affairs of the Republic of South Africa. By a further note verbale dated 20 October 1989, the Secretary-General again referred to resolution 1989/4 and in particular to its operative paragraph 10 and, in view of his reporting responsibilities under the resolution, requested the Minister for Foreign Affairs to provide him with any information the South African Government would wish to give on the implementation of the resolution. The Secretary-General further stated that it would be appreciated if such information could reach the Centre for Human Rights by 15 December 1989. At the time of the preparation of this report, no reply had been received from the Government of the Republic of South Africa.

5. In addition to the information already contained in the report of the Secretary-General to the General Assembly at its forty-fourth session (A/44/623), the Commission's attention is drawn to the interim report which the Ad Hoc Working Group of Experts on southern Africa has submitted to the present session of the Commission (E/CN.4/1990/7). Paragraphs 202 to 229 of this report contains information on the question of the treatment of children in South Africa and Namibia.